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HUMAN RIGHTS COMMITTEE

Forty-third session

SUMMARY RECORD OF THE 1118th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 7 November 1991, at 10 a.m.

Chairman: Mr. POCAR

CONTENTS

Consideration of reports submitted by States parties under article 40 of the Covenant (continued)

Third periodic report of Ecuador (continued)

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of Ecuador (CCPR/C/58/Add.9) (continued)

1. The CHAIRMAN invited the delegation of Ecuador to continue its replies to the questions raised in the list of issues, taking sections VIII, IX and X together.

VIII. Freedom of movement and expulsion of aliens (arts. 12 and 13)

(a) Please provide information on the relevant provisions regarding applications for passports, costs incurred in obtaining a passport, and possible grounds of refusal to issue a passport, including possibilities of appeal.

(b) What remedies are there against an expulsion order? Does the use of a remedy have suspensive effect?

IX. Freedom of religion and expression (arts. 18 and 19)

(a) Please clarify what forms of worship would be considered as detrimental to public morals (para. 125 of the report).

(b) Please provide additional information on the exceptions to freedom of expression based on the constitutional and legal provisions relating to the state of emergency (para. 130 of the report).

X. Freedom of assembly and association (arts. 21 and 22)

(a) Please elaborate on restrictions, if any, currently applicable to associations in the interest of public order (para. 139 of the report).

(b) Please provide information on current legal provisions governing the right to strike.

2. Mr. ORTIZ CRESPO (Ecuador), referring to section VIII (a), said that there were no political restrictions on the issue of passports but there might be some legal cases in which a person's exit from the country had to be restricted. The cost of a passport was approximately US$ 50, which was equivalent to the monthly wage of many elements of the population, so that that would pose a certain economic restriction, but if a person was in a position to pay the cost the only other requirement was that he must possess a national identity card and must fill out the necessary application form. There was complete freedom of movement within the country. Some discussion was taking place among environmentalists who wished to restrict population growth in the Galapagos Islands because of their unique character as part of the world heritage. A census taken in 1990 had shown that the population there had grown from 3,000 to 10,000 since the previous census and it was felt that if growth continued at the same rate that would place an intolerable

burden on the Islands. That was merely a debate among environmental experts, however, and there was no restriction on freedom of movement or freedom to establish residence.

3. Under the Andean Pact, Ecuador and Colombia had signed an agreement to eliminate passports for travel between the two countries, and only a national identity document was now required. Following the example of Europe, it had been decided that the five countries of the Andean Pact would, in the future, have a common passport. The date on which that passport would be introduced had not yet been established, but it would probably be about five years hence. Administrative appeal was available in the case of refusal to issue a passport. Proceedings could be instituted before the Administrative Disputes Court.

4. Mr. MEDINA LOPEZ (Ecuador) said that a distinction should be made between the deportation and the extradition of aliens. The Chief of Police was empowered to deport any alien who was in Ecuador illegally, and there could be no appeal against his decision. There could be no extradition of Ecuadorian citizens under the Constitution. For the extradition of aliens, the requesting country had to justify its request with proof of a conviction, and it was up to the President of the Supreme Court to decide on the validity or otherwise of the request.

5. Mr. ORTIZ CRESPO (Ecuador), referring to section IX of the list of issues, drew attention to article 19 (6) of the Constitution, which stated that persons could freely practise the faith that they preferred, except for the limitations prescribed by law to protect the security, public morality and fundamental rights of other persons. It had been thought that among the many sects that had arisen in Latin America in recent years there might be some that were not only dangerous to public morals but even to life, since murders had been committed by members of some of them in the United States and Mexico. The limitations referred to in the Constitution were merely a preventive measure. The Penal Code provided for the punishment of members of any sect who attacked those of another sect. Apart from the general provision in the Constitution, which had not as yet to his knowledge been used to restrict the activities of any religious faith, there was complete religious freedom in Ecuador.

6. On section IX (b) of the list of issues, article 78 (n) (5) provided that the President of the Republic was empowered to impose censorship on the media during a state of emergency. That measure, which was in conformity with article 4 of the Covenant, had never been applied under the present Constitution, although it had been used under the previous constitution at the time of a military coup.

7. With respect to section X of the list of issues, there were no restrictions on freedom of assembly, although the suspension of enforcement of constitutional guarantees was permitted during a state of emergency under article 78 (n) (6) of the Constitution except in certain specified cases. The right of assembly was not mentioned in article 4 of the Covenant among the rights from which there could be no derogation, and suspension of that right during a state of emergency was thus presumably permitted. There had,

however, been no cases of such suspension apart from restriction of the right to meet in certain specific places, for example in the vicinity of oil refineries or in areas of strategic importance.

8. Mr. MEDINA LOPEZ (Ecuador) said that the right to strike was guaranteed under the Constitution and was set forth in the Labour Code, which clearly laid down the procedure to be followed by all parties in such cases. The right was fully respected by the Government subject to the necessary security arrangements.

9. Mr. HERNDL said that both the second and third periodic reports of Ecuador fell somewhat short of explaining the situation with respect to the right to freedom of association (art. 22 of the Covenant). Reference had been made in the second report to specific sections of the Labour Code, but nothing had been said beyond the statement that the rights of assembly and association provided for in articles 21 and 22 of the Covenant were guaranteed by article 19 of the Constitution. In the third periodic report, reference was made, in connection with article 22 of the Covenant, to section V of the Labour Code, which dealt specifically with the right to freedom of association and contained provisions reproduced in an annexed reference document. Ecuador had ratified ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize but the ILO had specifically drawn the Government's attention to the fact that some provisions of Ecuadorian law were not in line with that Convention - and hence they were not in line with article 22 of the Covenant. Those provisions related to the requirement that members of the executive committee of a works council must be Ecuadorian; the fact that the administrative dissolution of a works council was automatic when its membership dropped below 25 per cent of the total number of workers; the prohibition on unions from taking part in religious or political activities, with the requirement that provisions to that effect must be included in the by-laws of the unions; the penalty of imprisonment for the instigators of collective work stoppages and those participating in them; and the lack of protection against acts of anti-union discrimination at the time of recruitment.

10. Although active discussions had taken place between the ILO and the Government with a view to overcoming those difficulties, the latest ILO report on the subject indicated that the Committee of Experts on the Application of Conventions and Recommendations had been informed that there were difficulties in passing appropriate legislation which had been jointly drafted and that a special Act was planned to ensure that public servants had the right to form trade unions. He inquired about any efforts by the Government to ensure that the provisions that were not in line with article 22 of the Covenant would be eliminated.

11. Mr. WENNERGREN drew attention to article 18 (2) of the Covenant, which stated that no one could be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice; and to article 19 (15) of the Constitution, which stated that no one could be required to declare his convictions except in the cases prescribed by law. He asked what cases were prescribed by law and in what manner. Could they infringe upon the right not to be subjected to coercion as provided for in article 18 (2) of the Covenant?

Many countries had legislation with an absolute prohibition against obliging a citizen to declare his religion or belief. He therefore wished to have details of the Ecuadorian legislation in that regard.

12. On the question of conscientious objection to military service, he asked whether the Compulsory Military Service Act permitted conscientious objectors to perform alternative national service. If so, what was its duration compared with that of compulsory military service? Article 8 (3) (a) of the Covenant stipulated that no one could be required to perform forced or compulsory labour, but subparagraph (c) (ii) provided that the term "forced or compulsory labour" should not include any service of a military character or any national service required by law of conscientious objectors. The objectives of military service set forth in the Compulsory Military Service Act included cooperation in the social and economic development of the country through the implementation of mixed military programmes as indicated by the Ministry of National Defence. The ILO had found such service to be compulsory labour and not military service. Did Ecuador regard it as being mainly military service and therefore covered by the exception permitted in article 8 of the Covenant, or was it deemed to be of special importance for the country?

13. Article 19 of the Covenant related not only to freedom of expression but also to freedom to seek, receive and impart information. Non-governmental organizations and other groups, or ordinary citizens, might need to know what was taking place in the courts or other bodies or among the public authorities. What means of access to such information were available? Could it, for example, be obtained directly from the files?

14. Mr. MAVROMMATIS, referring to section VIII (b) of the list of issues, recalled that the representative of Ecuador had stated that an alien unlawfully in Ecuador could be expelled on the decision of the Chief of Police and that there could be no appeal. He asked what would happen in the case of a decision to expel a person lawfully in the country and holding a tourist visa. Who would take such a decision and on what grounds, and would the person concerned have the right to present his case and ask for the decision to be reviewed?

15. In paragraph 138 of the report it was stated that government employees enjoyed the right to freedom of association. However, he had understood that one of the points of dispute with the ILO Committee of Experts had been that public servants were excluded from that right. Did they, in fact, have the right to organize and, if so, did they have the right to strike both generally and sectorally or were there any restrictions in any sectors other than security?

16. Mr. FODOR, referring to article 16 of the Covenant noted that article 60 of the Civil Code, reproduced in paragraph 110 of the report, provided that the birth of a person established the principle of his legal existence but that an infant who died in his mother's womb or who died before being completely separated from his mother would be regarded as never having existed. Yet it was stated in the third paragraph of article 25 of the Constitution that the child would be protected from the time of conception. In his understanding, if a foetus had certain rights to be protected it should be considered as

legally existing. The relevant provisions of the Civil Code and of the Constitution therefore appeared to be contradictory. He would welcome an interpretation of those two provisions by the Ecuadorian delegation.

17. Mr. EL SHAFEI noted that the National Security Act, to which reference was made in connection with article 17 of the Covenant, provided for limitations on a number of freedoms, and asked whether those restrictions applied only in emergency situations or in other situations also.

18. Article 7 of the Basic Act on Telecommunications, reproduced in paragraph 116 of the report, stated that only by means of a court order or at the written request of the sender or addressee could original communications or telegraphic messages be shown or certified copies of them issued. In what circumstances could the sender or addressee be expected to make such a written request?

19. Mr. ORTIZ CRESPO (Ecuador) said that there was currently no complaint against Ecuador by the ILO Committee of Experts on the Application of Conventions and Recommendations, although his Government had received requests in the past to improve its trade union legislation. Ecuador was a democratic country that respected the freedom of trade unions and the right of association. There were four trade unions in the country, in which all political trends were represented. None of them had any link with the Government. Support was given to association of the people at all levels both in trade unions and in more informal organizations. Ecuador considered a strong organization of the labour force to be absolutely essential to its democratic way of life, and it therefore supported all forms of trade union freedom. It had taken part on many occasions in events organized by trade unions and had allowed their leaders to confer with the head of Government whenever they wished. A proposal to reform the Labour Code had been submitted to Congress eight months earlier and was under discussion by the legislature. Some 80 per cent of the proposed reforms were supported by the trade unions. The remaining changes, which were necessary in the current economic situation in Ecuador, by no means restricted labour freedom. The existing Labour Code dated from 1938 and was in urgent need of reform.

20. In reply to Mr. Mavrommatis, he confirmed that members of the civil service indeed possessed the right of association, and that there were a multitude of civil service unions, as well as a national federation.

21. In answer to Mr. Wennergren's question on conscientious objection, he said that there was currently no provision for conscientious objection in Ecuador. It was necessary to set things in the Ecuadorian context, and to understand that most Ecuadorians enthusiastically performed their military service. In actual fact, as Ecuador's armed forces were small, they did not require all the potential conscripts, and it was relatively easy to avoid performing military service. However, most of the poorer elements of the population eagerly performed their military service as it provided them with an opportunity to escape poverty and rural isolation. As a result, most of the conscripts came from that sector of the population, although members of the richer classes could perform their military service if they so wished. He felt that conscientious objection was really a problem of the developed countries, although he appreciated that the issue might arise at a later date,

and he did not feel that there would be any opposition to making provision for conscientious objection in Ecuador. There was no form of substitute national service, and the mixed service to which Mr. Wennergren had referred essentially comprised agrarian works, such as the reafforestation of deforested upland areas, undertaken by the military. Those works mainly involved the indigenous population and the inhabitants of rural areas, who did not suffer the full rigours of military life, and whose period of service was reduced. He stressed that such works had made a great contribution to Ecuador's reafforestation.

22. There was currently no law regulating freedom of access to information, an issue that was now the subject of considerable attention in Ecuador. Before being appointed to his present post, he had been Secretary of State for Information and he could testify to the fact that the issue had been the subject of a study, which had found that the only relevant provisions dated from the 1950s, and principally concerned the classification of documents. The main impediment to freedom to seek information was the somewhat secretive attitude of the bureaucracy. When he had been Secretary of State for Information he had actively campaigned to change that attitude, and had recently issued a circular reminding administrative officials that the public was to be allowed access to all documents, with the exception of those classified as secret. In addition, the National Congress had freedom of access to documentation.

23. In reply to Mr. El Shafei, he said that the National Security Act also applied to situations other than states of emergency, and established the National Security Council which was responsible for dealing with natural disasters, such as those caused by the El Niño phenomenon. However, when the Act was used to that effect, it did not involve any restriction on freedoms.

24. Regarding the protection of correspondence, he confirmed that the secrecy of correspondence was protected except when it was necessary to reveal its contents in connection with legal proceedings, in which case a special procedure had to be followed.

25. Mr. MEDINA LOPEZ (Ecuador), replying to remarks by Mr. Herndl and Mr. Mavrommatis relating to freedom of association, said that freedom of association was guaranteed in Ecuador both for workers in the private sector and the civil service, by article 31 of the Constitution. However, a distinction was made between private-sector workers and the civil service with regard to the right to strike, which existed for the former, but not for the latter. Civil servants had their own associations and a national federation, which could submit petitions, although it could not organize strikes. The prohibition on strikes did not apply to the whole of the civil service, as certain government employees, mainly manual workers, were subject to the Labour Code, and possessed the same rights as private-sector workers.

26. With regard to the question of compulsory military service, and in particular the mixed form of service referred to by Mr. Wennergren, he said that it was incorrect to describe it as compulsory labour. In fact it provided Ecuadorian youth with an opportunity to contribute for one year to its country's growth. There were indeed exemptions from compulsory military service, although not on religious grounds. However, if a youth was his mother's sole source of support he could be exempted.

27. With regard to the question of freedom to seek information, he confirmed that administrative files were public, with the exception of those relating to national security and military matters. However, it was true that access to administrative files was hampered by the bureaucratic tendency towards secrecy. In order to gain access to a file it was necessary to make a formal application for a certified copy of a particular document, and the application had to be approved by the relevant administrative officials whose attitude constituted the major problem.

28. With regard to the provisions concerning the expulsion of aliens who were legally in Ecuador, he said that the relevant decision was taken, as in the case of illegal aliens, by the Intendente General de Policía (Provincial Governor) whose name was misleading, because he was not in fact a police officer, but a magistrate responsible to the Ministry of the Interior, and the highest official in each province. However, it was mandatory for expulsion orders against aliens legally in Ecuador to be referred to the Minister of the Interior, whose decision was final.

29. Lastly, with regard to the alleged inconsistency between article 60 of the Civil Code and article 25 of the Constitution, he pointed out that the contradiction was only apparent. The constitutional provision applied to questions of inheritance, while the provisions of the Civil Code established the obligation to protect the life of the unborn child, as well as obliging an unborn child's father to support its mother.

XI. Protection of children (art. 24)

Please comment on persistent reports that children in Ecuador have been kidnapped for sale or adoption. What are the safeguards to protect children from such practices and to prosecute persons who have committed such offences?

XII. Right to participate in the conduct of public affairs (art. 25)

(a) What progress has been achieved in the preparation of a draft amendment of the Political Parties Act to bring its provisions more into line with the concept of "electoral quotient" referred to in the Constitution (para. 173 of the report)?

(b) In addition to the inability to vote, what other consequences does the deprivation of civil rights have (para. 158 of the report)?

(c) Please provide information on the reasons for differentiating between persons who can read and write and those who are illiterate or aged over 65, as mentioned in paragraph 157 of the report. Please clarify the compatibility of this differentiation with the provisions of the Covenant.

XIII. Rights of persons belonging to minorities (art. 27)

Please elaborate on the ecological deterioration of the area in the Amazon region affecting the social and cultural organization of the indigenous communities living there. Please indicate whether appropriate solutions have been found (para. 192 of the report).

30. Mr. ORTIZ CRESPO (Ecuador) confirmed that there had indeed been cases in which children had been kidnapped for adoption in exchange for profit, and a number of individuals, including lawyers who had acted as intermediaries, had been convicted and sentenced to prison. The incidents had caused a national outcry and the regulations on adoption had been suspended on account of the loopholes they offered to unscrupulous individuals. Those members of the juvenile courts who had been implicated in the kidnappings had been dismissed and the whole area of adoption had been reorganized. On 11 January 1990, new adoption regulations, designed principally to promote the interests of adoptive children, had come into force. They had now been in operation for two years and had led to a marked improvement in the situation. Ecuador had received and continued to receive technical assistance from the Adoptions Forum of Norway, which had helped it to prepare a brochure on adoption, and it had also acceded to the Convention on Adoption sponsored by the Inter-American Children's Institute of the Organization of American States.

31. At the time, the kidnappings in Ecuador had given rise to international concern. Currently, as a result of the measures adopted, Ecuador was in a position to assist, and had given assistance on adoption to other countries of the region, through its Departamento técnico del Niño (Technical Department for Children).

32. With regard to section XII (a), he said that little progress had been made, and it was unlikely that there would be any change before the forthcoming general elections in May. However, the "electoral quotient" requirement, whereby a party that did not obtain at least 5 per cent of the votes cast in two successive multi-candidate elections at the national level was automatically dissolved, had been abrogated after it had been found to be unconstitutional by the Supreme Court. As a result, all political parties were entitled to exist, regardless of the percentage of the vote that they obtained.

33. The civil rights referred to in section XII (b), included not only the right to vote, but a number of political rights, and in particular the right to stand for election, and applied to all persons who had received final prison sentences.

34. With regard to section XII (c), he said that it was mandatory for all literate Ecuadorians aged over 18 to vote. In the case of illiterates or persons over 65 years of age, voting was optional and there was no penalty for not voting. Illiterates had won the right to vote only in 1979. There was no contradiction between the provision concerned and the Covenant, as there was no question of depriving any category of persons of the right to vote. He further added that mandatory voting was of great importance in a fragile democracy and was a means of ensuring the legitimacy of Governments. In addition, a national literacy campaign launched in 1989 had reduced illiteracy in Ecuador from 12 per cent to 6 per cent of the adult population. The campaign, in which secondary-school students and the armed forces were involved, was continuing and had been extended to provide adults with basic skills.

35. In answer to the question in section XIII, he said that the indigenous communities living in the Amazon region amounted to a population of not more than 500,000 and perhaps as little as 300,000. The largest ethnic group, the Shuaros (formerly known as the Givaros), had been once widely known as head-hunters but their ferocity had now been much reduced through contact with the outside world. In the 1930s a Shuaro Federation had been established which had since been very active in the economic, social and cultural field in defence of the Shuaro language and Shuaro territory. The Shuaros made up about half the indigenous population of the Amazon region, the rest comprising a further 13 ethnic groups.

36. The ecological deterioration of the region had a number of causes, the main one being the deforestation attendant on the spontaneous settlement that had taken place after roads had been built through the area. Another was oil production: the Texaco Company had over a 20-year period benefited from an oil concession under which it had extracted oil with no regard for the environment. A third cause of damage to the ecology was from companies granted agricultural concessions to plant cash crops such as the oil-palm.

37. Ecuador, however, was not remaining inactive. In an attempt to curb spontaneous settlement, the Government had amended the agrarian reform measures encouraging settlement by conferring ownership of land on those clearing it of trees. The Institute for Agrarian Settlement was also promoting more rational use of land in the Amazon region. Not only had settlers been banned from certain areas, the number of national parks and nature reserves had been increased and over 1 million hectares had been granted to the Shuaro Federation and other organizations of indigenous peoples in the Amazon region. Such peoples, through their knowledge of the life of the forest, were able to exploit their land without inflicting ecological damage and would thus ensure the preservation of large areas of the region. In addition, the present Government had set new, stringent standards for oil companies working in the Amazon region. Under the provisions of the contracts offered such companies, they were obliged to use the latest technology to minimize ecological risk and to observe strict rules with regard to the drilling of wells and the safe disposal of waste products. Control over oil production in the region would be exercised by the State oil company which had a laboratory for ecological control. No agrarian concessions had been granted by the present Government.

38. The Government had drawn up a bill that would shortly be submitted to Congress to establish a fund for conservation of the ecology of the Amazon region. It believed that a balance could be struck that would permit development to continue while preserving the ecology from damage. However, although some solutions had been found, enormous problems still remained and continued vigilance was necessary. Ecuador had, nevertheless, had one success in conserving another ecologically fragile area, the Galapagos Islands, and it hoped to be equally successful in the Amazon region. President Borja had proclaimed the 1990s a Decade of Development in Ecuador but had also declared that all future development projects were to include a study of their environmental impact and measures to reduce that impact. Ecuador was well aware of the richness of its bio-system, the most diverse in the world as a result at its geographical attributes, and recognized its duty to preserve it. In that task the indigenous peoples would have a very important role to play.

39. Miss CHANET, referring to question XII (c) and paragraph 157 of the report, said that no State was obliged to make voting compulsory, but that if it did so voting should be compulsory for all under the provisions of article 25 of the Covenant, which required that suffrage should be universal and equal without distinction. Making voting optional for some and compulsory for others produced a two-tier system that could in certain circumstances be used to exclude certain persons from the vote. Although it was understandable that voting should be optional for the elderly, she was unable to understand why such a provision should be made for those who were illiterate; the fact that such persons had been accorded the vote at a later point in time than those who could read and write was no reason for any distinction to be made.

40. With regard to paragraph 158 of the report, she asked whether the police were included among the members of the armed forces on active duty who did not have the right to vote and, if so, what was the reason for such exclusion. Although paragraph 159 said that their duty was to obey, not to take decisions, surely the rank and file of the police force would, if excluded from voting, fail to identify itself with the civil population and would fail to meet the standards of behaviour expected of that population. Noting that paragraph 159 of the report indicated that there was a current of opinion in Ecuador to end that state of affairs, she asked whether any action had been taken to that end.

41. Mr. SADI, referring to section XI, said that the kidnapping of children for sale or adoption was not unique to Ecuador but occurred in many Latin American countries and other developing countries throughout the world. The Sub-Commission on Prevention of Discrimination and Protection of Minorities had a Working Group and a Special Rapporteur on contemporary forms of slavery, whose terms of reference included consideration of the sale and adoption of children. Was Ecuador playing any part in those efforts by the United Nations system to find ways to solve the problem? The Working Group on Contemporary Forms of Slavery had received appalling reports that children were being kidnapped not only for adoption and sale but also for organ transplants, a problem it was indicated that Ecuador shared. That practice gave an added tragic dimension to child kidnapping and made it imperative that every effort should be made to eliminate it. However, since kidnapped children could not be offered for sale, adoption or organ transplant without leaving the country, he asked whether the practice was perhaps continuing because emigration control at points of departure from Ecuador was not strict enough. A partial solution to the problem could perhaps be achieved by tightening examination procedures at borders.

42. Noting from paragraph 152 of the report that care was being provided for 150,000 children in areas of extreme poverty, he said it appeared reasonable to suppose that many were children born out of wedlock. What were the legal status, citizenship rights and inheritance rights of such children in Ecuador?

43. With reference to question XII (c), he shared Miss Chanet's concern. He also wondered to what extent the practice of "one man, one vote", a principle upheld by the Covenant in requiring equality of access to political rights, was observed in Ecuador. How was that principle applied in the context of the different electoral categories existing in the country?

44. On the subject of question XIII, there were two aspects to ecological deterioration in the Amazon region. One was associated with the rights of indigenous peoples. He asked whether Ecuador had any treaties or agreements with its indigenous peoples similar to those in existence in Canada, or whether the indigenous peoples in Ecuador were so unfamiliar with modern customs that such agreements were not feasible. If that was the case, were any efforts being made to educate them appropriately? The second aspect was the right to life not only of the citizens of Ecuador but also of humanity at large in view of the fact that the Amazon area was a vital source of oxygen for the planet. Noting the introduction of new legislation on the ecology in Ecuador, he wondered why the country had been so late in recognizing the need for a balance between development and the right to life. He deplored the fact that there was no world fund to provide compensation for countries renouncing development in the interests of the ecology of the whole planet. He greatly appreciated the additional information on such an important subject that the delegation of Ecuador had provided.

45. Mr. ANDO, referring to article 23 of the Covenant, said he would appreciate further information on the right of married women to initiate legal proceedings, in view of the amendments to the Civil Code and the Code of Civil Procedure mentioned in paragraph 100 of the report that had done away with the relative disability of married women to take part in such proceedings. He joined Mr. Sadi in his concern that children in Ecuador should enjoy equal rights regardless of whether they were born in or out of wedlock. He concurred with Miss Chanet's views on optional voting for illiterates and wondered whether means might not be found, for example by using pictures or by impartial oral questioning, to ascertain the political will of illiterate persons.

46. Mr. FODOR said that in many countries referendums could be initiated by the people provided that signatures in sufficient number as defined by law had been collected. In Ecuador only the President had the power to call a referendum and he asked what were the reasons for such a restriction. Voting was compulsory in Ecuador, although it was not an obligation under the Covenant; he asked what legal sanctions if any were applicable to persons who were unwilling to comply with that obligation. Was it in fact a legal or a moral obligation?

47. Mr. EL SHAFEI expressed his appreciation of the very informative answers which the delegation of Ecuador had provided to the written and oral questions of the Committee.

48. Referring to paragraph 161 of the report, he wondered whether the stipulations that a party had to be a nationwide organization, and in addition advocate doctrinal principles by which it might be identified before it could be registered and authorized to take part in the conduct of public affairs were totally compatible with the provisions of article 25 of the Covenant. In some cases political parties were concentrated in restricted areas of a country and it seemed unreasonable to deprive them of the right to exist simply because they were not nationwide. Further, did identification of a political party mean that it could not subscribe to programmes that other parties supported? That would appear to be a restriction of their political

rights. With respect to article 38 (2) of the Constitution of Ecuador, referred to in paragraph 169 of the report, was any amendment envisaged to remove the quotient requirement?

49. Mr. MYULLERSON, referring to articles 25 and 27 of the Covenant and article 34 of the Constitution of Ecuador, asked how the proportional representation of minorities in elections was guaranteed. How were minorities represented in the elected bodies of Government? Concurring with Miss Chanet's comments on the optional suffrage offered illiterate persons, he wondered whether such a distinction was objective and reasonable, since the outcome of an election could be influenced by the proportion of the illiterate population taking part in it.

50. Mr. WENNERGREN asked whether all the indigenous groups making up minorities in Ecuador had been identified or whether there was still a likelihood that some hitherto unknown indigenous people might yet be discovered, as had happened not long ago in Bolivia.

51. With regard to the comments that had been made on compulsory and optional suffrage in Ecuador, his opinion was that voting should always be optional. He noted that the Constitution of Ecuador stipulated there should be no coercion to impair a freedom to hold a belief of one's choice and that everyone should have the right to opinion without interference. Those provisions surely applied to a person whose conscience might prevent him from voting or taking part in public affairs and it was difficult to consider compulsory voting as compatible with the provisions of the Covenant that upheld freedom of thought, conscience and opinion. Had anyone been punished for not performing their duty to vote?

52. With regard to Miss Chanet's comment on paragraph 158 of the report, he assumed the term "armed forces" included not only the police but the military. With reference to article 13 (2) of the Constitution whereby the rights of citizenship were suspended during confinement in prison, he considered that since it provided a useful means of silencing troublesome political opponents it was perhaps a dangerous provision to maintain. Was the provision concerned one left over from an earlier period and was there any intention to repeal it?

53. Mr. ORTIZ CRESPO (Ecuador) said there were historical reasons for according optional suffrage to illiterate persons. In Ecuador illiterate persons came from the indigenous Indian population owing to the fact that the original Spanish conquerors of the country and the citizens of European origin after independence had not considered it necessary to provide education for them. That reluctance had been dictated by the wish to keep them subservient to the landowners, the Church and the authorities. The more conservative elements in the country considered the indigenous population as a mass it could influence and hence rely on for support; they had thus at times promoted a policy of giving the vote to that population. The liberal elements in society had opposed giving the vote to the indigenous population arguing that it was too easily manipulated by the large landowners and the Church, whose influence they were endeavouring to combat. That debate over voting rights for the indigenous population had lasted for 100 years in Ecuador. However, when a country became urbanized and industrialized its society became more

complex; thus in Ecuador the confrontation between liberal and conservative tendencies had produced other political parties which had supported democracy for all. Finally, in 1979 a new constitution had been adopted giving the suffrage to illiterate persons. However, despite the considerable changes that had taken place in agricultural structures there was still a fear that the large landowners, of whom there remained a considerable number in Ecuador, would continue to manipulate the indigenous population and exert pressure on it to vote for the candidates of their preference. It was considered that making voting optional for illiterate persons would reduce such manipulation. He could assure Mr. Myullerson, however, that since the number of persons who could not read or write was decreasing, their impact on political life in Ecuador was diminishing. In the first election in which they could vote, in 1980, 100,000-150,000 illiterate persons had participated. In the 1984 general election that number had risen to 300,000, a level at which it had remained in 1988. That number was considered to be a peak and in fact in 1990 the number of illiterate persons voting had started to decline since. As illiterates became literate, voting became compulsory for them. The vote of illiterates had little effect in national elections where there were several million voters, but could be significant in local elections. As a result, members of the indigenous population had been elected councillors in municipal elections for the first time. To answer Mr. Ando's question, a single ballot paper was used in elections in Ecuador. It carried the name of the candidate, the symbol of his party, and the number of the party list to which he belonged. Illiterate persons could easily recognize the party symbol by its shape and colour and thus were able to vote without difficulty for the candidate and party of their choice.

54. In reply to Miss Chanet and Mr. Wennergren, he said that voting was not allowed by members of the police or armed forces for historical and political reasons. With Ecuador's history of coups d'état, civilian society had sought, by withholding the vote, to restrain the army's political ambitions. In recent years, however, the armed forces had tended increasingly to respect the electoral order, and one school of thought was in favour of granting them the right to vote. Elsewhere it was argued that voting might cause a political division in the army and a possible loss of discipline. The debate continued, but there were no specific plans to amend the law in that regard.

55. In reply to Mr. El Shafei, he said that the situation might best be understood in its historical context. Although a small country, Ecuador was divided by the Andes, a formidable barrier which had created wide geographical differences and an intense regionalism. In the past that situation had been exploited by political parties anxious to maintain regional powers and oligarchy. More recently, and after a considerable struggle, democratic elements had sought to overcome those regional divisions by legal and constitutional means, and establish a more national approach. As a result, political parties now had to be national in scope, and under the Political Parties Act a large proportion of Ecuador's 21 provinces had to provide candidates for election. As to identity, strenuous efforts had been made in the past to change the nature of the political parties run by regional leaders into parties with a wider, more solid and permanent basis. There were no major restrictions on the formation of parties, and the approval of two new political parties in 1991 had brought the total number to 17.

56. Mr. Fodor had raised a question on the President's power to call a referendum. The Constitution provided that either the President or the National Congress could call a referendum provided that it was of sufficient constitutional importance. The last referendum had been called during the 1984-88 Government.

57. In reply to Mr. Sadi, he said that there had been the widest cooperation between the United Nations and the Ecuadorian authorities in relation to the protection of children, particularly since the discovery that children were being kidnapped for sale and adoption. As far as he knew there had been no cases of kidnapping for the purposes of organ transplants. In view of Ecuador's large Amazon region and long coastline, it was not difficult for children to leave the country or to be taken out of it without the knowledge of the authorities, but efforts were being made to impose tighter controls.

58. One of the President's major concerns had been children, and under a new child welfare act placing emphasis on community care, a network of houses had been established where children could be cared for within the community, as opposed to State kindergartens. Some 50,000 children were now in community accommodation.

59. Ecuador had no treaties with indigenous peoples as did Canada, the indigenous inhabitants always having been considered Ecuadorians. In his 1988 inaugural address the President had referred to Ecuador as a multinational country, but there was no legislation in that regard, nor were the indigenous populations pressing for any change.

60. He had not intended to imply that head-hunters still existed. Since the beginning of the century such populations had made considerable strides and had adopted those aspects of Ecuadorian culture which they felt appropriate. Some groups were now more advanced in many ways than some white societies, particularly from the point of view of their organization, the defence of their culture and their lifestyle. Some very primitive groups still existed, however, and there was considerable debate in the country as to whether they should be allowed to remain as they were or be integrated in the prevailing civilization. In view of the very strong arguments that such groups had the right to their own lifestyle and culture, and that the myriad of different cultures in Ecuador should be preserved, the groups concerned had so far remained undisturbed.

61. There were political reasons why ecological measures had been taken late. Over 25 years previously, Texaco had been awarded the oil concession, and the agreement had left the Government with little control. Changes had been introduced with difficulty and after a long time; the concession was now held by a State company and strict rules had been established.

62. Mr. MEDINA LOPEZ (Ecuador), replying to questions raised by Mr. Sadi and Mr. Ando, said that, since the reform of the Civil Code in 1970, there had been no distinction whatsoever between children born in or out of wedlock provided that a legal declaration of paternity or maternity was made. All children had equal rights, to be fed and cared for by their parents, and equal rights of inheritance: prior to 1970, so-called illegitimate children had only had 50 per cent of the entitlement of legitimate children. The status of

married women had also changed in 1970. Before then, women had had to be represented by their husbands in all acts and contracts, including court appearances. Women were now free to enter into contracts and to appear in court. As a result of the 1988-1989 reforms, both spouses were equal before the law, married women no longer being subject to the tutelage of their husbands. In addition, whereas prior to 1989, a married couple's assets had been administered by the husband, under the new legislation, a couple had to decide by mutual agreement prior to marriage which of them was to administer the family property.

63. Electoral minorities participated in Government according to a quota system based on the size of their vote in an election.

64. Voting was regarded as both a right and a duty in Ecuador because it had been considered to be the only way to ensure the widest possible participation in elections and the best way of legitimizing those elected. Failure to vote could result in fines and even the loss of certain political rights, but exemptions were allowed in proven cases of illness, compulsory military service and absence from the country. People serving jail sentences lost their right to vote, and while it might be argued that imprisonment could be used as a form of vote-rigging, there was no record of such a practice in Ecuador.

The meeting rose at 12.55 p.m.